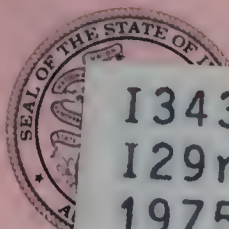


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# THE RIGHT TO APPEAL AND TO RECEIVE A FAIR HEARING

UNIVERSITY OF ILLINOIS-URBANA



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Illinois Department of Public Aid  
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## Definitions

1. "Department" means the Illinois Department of Public Aid.
2. "Director" means the Director of the Illinois Department of Public Aid.
3. "County department" means the county Department of Public Aid.
4. "Applicant" means a person who is applying for public aid.
5. "Recipient" means a person who is, or has been, receiving public aid.
6. "Appellant" means a person who has asked for a fair hearing on an action of the county department which he believes is unfair.
7. "Fair Hearing" means an informal but orderly proceeding before a hearing officer of the department. All applicants for and recipients of public aid have an opportunity for an impartial review of decisions made by the county department by means of a fair hearing.

**Advance Notice.** A recipient of public assistance must be given 10 days timely notice in writing before a county department acts to reduce or terminate his assistance. He may discuss with his caseworker (within the 10-day period) the reasons for the proposed change. But this is not the same as an appeal, nor does it prevent him from appealing after such a conference.

**Request for Fair Hearing.** Any person receiving or applying for public aid may ask for a hearing on any decision which he thinks is unfair, but he must do so in writing within 60 days after the county department notifies the appellant that an adverse action will be taken. Any person receiving or applying for public aid may also ask for a hearing in writing if the county department fails to act on any specific request he makes.

Action or inaction by the county department which may be appealed are:

- 1) the county department does not take his application or does not act on his application within 45 days (60 days for Aid to the Disabled); 2) his application is denied; 3) the check he receives is in the wrong amount; 4) a decision is made to reduce or terminate

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his grant; 5) he is excluded from a service program or it is determined he must participate in a service program; 6) he objects to the manner in which his grant is paid (for example, protective payments); 7) the county department does not act within 30 days on any specific request he makes; 8) any other action or inaction of the county department which he feels is unfair.

Food stamp applicants and recipients have the same rights to a fair hearing on action or inactions made which affect their participation in the Food Stamp Program.

**Notice of Appeal.** An applicant or recipient may make an appeal in writing to the local county department or to the Illinois Department of Public Aid. The county department will provide a "Notice of Appeal" (DPA 103) which he may use in making his appeal.

If the county department determines that the appellant has appealed a proposed reduction in or termination of an assistance grant and the recipient has appealed the proposed change within the 10-day timely notice period, assistance is continued unchanged during the hearing process.

**Case Review by the County.** The county department (district office in Cook County) will review the action being appealed within 10 working days of the request for a hearing. If the changed decision is satisfactory to the appellant, the county department may then request that a form, "Request to Withdraw Appeal" (DPA 65) be signed. Only the person who appealed or his representative can withdraw his request for a hearing. He can withdraw his appeal any time before or during the hearing.

If the decision remains unchanged or the changed decision is unsatisfactory and the appeal is not withdrawn, a hearing officer of the state Department of Public Aid schedules a hearing and notifies by mail the appellant of the date of the hearing. This notice is usually sent at least seven days before the date of the hearing. When a hearing has been scheduled, the county department prepares a "Statement of Facts"—(DPA 102)—the facts upon which the county department made its decision—and will provide the appellant with a copy at least two days prior to the hearing.

**Fair Hearings.** Hearings are held in the county where the applicant or recipient lives. Unless circumstances make it necessary to hold hearings elsewhere, they are held in the office of the county department. The exception is Cook County where hearings are usually held in the office of the Illinois Department of Public Aid.

The person appealing a county department decision should take to the hearing any records and receipts or papers which might help him prove his claim (written proof of living expenses, income, medical bills, tax receipts, savings or bank account books, etc.). He or his representative will have the opportunity before and during the hearing to examine all documents and records which the county department plans to introduce as evidence in the hearing.

The hearing is held without cost to the appellant. The county department will provide for payment of unusual expenses (transportation, child care) that might prevent an appellant's attendance at his hearing. Legal fees are not paid by the department.

The department, at its option, may hold group hearings when each in a series of individual appeals has a common complaint and the only issue in question is one of policy. Any individual who is made part of a group hearing may withdraw from the group and present his appeal individually.

**Attendance at Hearings.** Hearings are not open to the public. To keep the information confidential, the only persons who will be at the hearing are those directly concerned—the person making the appeal; his lawyer and any other persons he may need to help present the case; the member of the county staff directly responsible for the action for appeal; and the necessary witnesses for the county department. Witnesses at the hearing are examined under oath.

**At the Hearing.** The person appealing a county department action is encouraged to tell his story in his own way. In no case shall any child who is under the age of 12 be questioned unless called as a witness by his parent. Hearing proceedings are recorded by a stenographer or tape recorder. No copy of such record will be furnished to any person unless the appeal goes on to court under the Administrative Review Act.

**Depositions Permitted.** When the appellant is outside the state or is unable to attend a hearing for physical or mental reasons, the department may accept written information from the appellant and his witnesses, or permit witnesses acting on his behalf to present evidence in support of his claim. If a doctor cannot attend a hearing, he may submit his testimony in writing.

**Hearing Officer's Report.** At the conclusion of the hearing, the hearing officer prepares a written statement of the facts and recommends a decision. The Director of the Department of Public Aid reviews the report and either upholds, reverses, or modifies the county department action which was appealed.

The appellant will receive a copy of the decision, as approved by the Director, as well as a letter notifying him of his right to judicial review of the decision under the Administrative Review Act. In cases where the decision favors the appellant, the county department will take appropriate action within 90 days from the filing of the appeal, including the issuance of assistance retroactive to the month in which the error was first made, if necessary.

**Postponed Hearings and Rescheduled Hearings.**

At the request of the appellant, a hearing may be postponed for a short period of time. When it is necessary to get more information, the hearing may be continued until a later date.

When an appellant, whose assistance has been continued unchanged as a result of his request for a hearing, does not appear at a scheduled hearing and fails to advise the hearing officer of his inability to attend, the county department may proceed with the proposed change in his grant.

If an appellant does not appear at a scheduled hearing and fails to request a postponement, the appeal will be considered abandoned. The appellant will be given written notice of this, but may continue his appeal if within 10 days of the notice he provides the department with good cause for his failure to appear.

**The Official Report.** The official report of the hearing consists of the documents filed in the case, along with the facts and the decision. At any time after the hearing decision, the appellant or his lawyer may review the official report in the office of the county department.

